

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Harold Rodriguez	Team: Squad #1	CCRB Case #: 202006187	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 09/12/2020 8:30 PM	Location of Incident: In front of the 34th Precinct Stationhouse	Precinct: 34	18 Mo. SOL 3/12/2022	EO SOL 5/4/2022	
Date/Time CV Reported Mon, 09/14/2020 12:21 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 09/14/2020 12:21 PM		

  

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

  

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

  

Subject Officer(s)	Shield	TaxID	Command
1. LT Theodore Wells	00000	942694	028 PCT

  

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT William Gaspari	01310	941799	SRG 3
2. POM Reginal Jeanraymond	29350	925511	SRG 3

  

Officer(s)	Allegation	Investigator Recommendation
A.LT Theodore Wells	Force: Lieutenant Theodore Wells used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
B. § 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]	[REDACTED]

### Case Summary

An § 87(2)(b) individual filed the following complaint via the CCRB website on September 14, 2020, based on a video they observed on the Gothamist news website (Board Review 01).

On September 12, 2020, a Black Lives Matter protest march concluded in front of the 34<sup>th</sup> Precinct stationhouse. Police officers from several commands arrested individuals who would not disperse from the area. Sgt. William Gaspari of Strategic Response Group 3 (SRG 3) arrested § 87(2)(b). § 87(2)(b) grabbed § 87(2)(b) around the waist in an attempt to pull her away. Lt. Theodore Wells, of the 28<sup>th</sup> Precinct, grabbed § 87(2)(b) and in one motion, pulled him off of § 87(2)(b) and pushed him away. § 87(2)(b) fell to the floor and allegedly fractured his arm (**Allegation A – Force: § 87(2)(g)**). § 87(4-b), § 87(2)(g) § 87(2)(b) was not arrested or issued a summons.

This case was deemed sensitive due to the media coverage it received.

28 Body Worn Camera (BWC) videos were received for the protest on September 12, 2020 (Board Review 19-43). Sgt. Gaspari had two videos (Board Reviews 7 and 44) of which only one partially captured the incident. Lt. Wells had one video, but it did not capture the allegation (Board Review 45).

### Findings and Recommendations

#### **Allegation (A) Force: Lieutenant Theodore Wells used physical force against § 87(2)(b)**

An individual named § 87(2)(b) posted a 19-second video of the interaction between Lt. Wells and § 87(2)(b) on his Twitter page (Board Review 02). § 87(2)(b) did not cooperate with the investigation. The source of the video is unconfirmed, and it is unknown if § 87(2)(b) filmed it himself.

The video posted by § 87(2)(b) depicts Sgt. Gaspari and other unidentified officers handcuffing § 87(2)(b) a black female wearing a black t-shirt, black bike shorts, black mask, and wearing her hair in a ponytail, observed to the right of the civilian wearing a pink backpack. At the eight second mark of the video, § 87(2)(b) who appears to be a white male, is seen wearing black shorts, a black sweater, black hat and a black backpack. He has both of his arms wrapped around § 87(2)(b)'s waist from behind. § 87(2)(b) shifts his weight downward into a half-squatting position while bending his knees, and pulls § 87(2)(b) backward. At the 10 second mark, Lt. Wells, a black male who is wearing a white NYPD uniform shirt and no hat, grabs the front of § 87(2)(b)'s sweater with his right arm and grabs the back of § 87(2)(b)'s backpack with his left hand. Lt. Wells pulls § 87(2)(b) away from § 87(2)(b). § 87(2)(b) is still in a squatted position with his knees bent. As Lt. Wells pulls § 87(2)(b) away, § 87(2)(b) straightens his legs closer to a standing position and Lt. Wells releases his grip on the backpack and pushes § 87(2)(b) backward with his right hand on § 87(2)(b)'s chest. § 87(2)(b) stumbles backwards and reaches his left hand behind his back as he falls to the ground. The individual filming the interaction, pans the camera down to the pavement and another bystander blocks any view of § 87(2)(b) after he hits the ground.

§ 87(2)(b) did not cooperate with the investigation. Several attempts were made via telephone, e-mail, and social media to contact him and his civil attorney, § 87(2)(b) but neither contacted the CCRB. § 87(2)(b) posted on his Instagram page that he was thrown to the ground by Lt. Wells and did not provide further details (Board Review 03).

A press conference was held in front of the 34<sup>th</sup> Precinct Stationhouse on September 14, 2020 (Board Review 04) and § 87(2)(b) appeared with Attorney § 87(2)(b). § 87(2)(b) wore his left arm in a sling and spoke in general about police brutality. At the 10:45 mark of the video, § 87(2)(b) stated that an officer threw him to the ground and fractured his arm.

Upon being contacted, § 87(2)(b) did not provide a statement without permission from her attorney. The CCRB was unable to get in contact with § 87(2)(b) after stating she would speak to her attorney and she would not provide the CCRB with the contact information of her attorney.

The NYC Comptroller's Office confirmed that a Notice of Claim was filed but would not provide the 50(H) transcript (Board Review 05). Subsequent phone calls to Attorney § 87(2)(b) for obtaining a copy of the transcript went unanswered.

Since § 87(2)(b) did not cooperate with the investigation, medical records could not be obtained. Aside from his appearance at the aforementioned press conference, it is unclear whether he received medical treatment or if his arm was fractured.

Lt. Wells stated that he followed a protest march that ended in front of the 34<sup>th</sup> Precinct stationhouse. Lt. Wells stood by watching the crowd to make sure nobody tried to breach the 34<sup>th</sup> Precinct stationhouse doors. The crowd blocked the intersection and a pre-recorded message played over a loudspeaker that instructed people to disperse and not block the sidewalk. Lt. Wells did not recall the exact words used in the pre-recorded message. Lt. Wells saw Sgt. Gaspari trying to arrest § 87(2)(b) in the middle of the street. § 87(2)(b) walked up and put his arms around § 87(2)(b)'s waist and tried to pull her away from Sgt. Gaspari. Lt. Wells walked over, put one hand on § 87(2)(b)'s backpack and another near the abdominal area and guided § 87(2)(b) away from § 87(2)(b) and Sgt. Gaspari. Lt. Wells described this as a minimal amount of force that he used to correct the situation of § 87(2)(b) preventing § 87(2)(b) from being arrested and denied pushing him down. Lt. Wells stated that § 87(2)(b) wore a large backpack at the time and this, in combination with the momentum from pulling on § 87(2)(b) with his full body weight, caused him to fall backwards onto the pavement. Afterwards, § 87(2)(b) sprung up to his feet and told Lt. Wells, "You fucking broke my arm, I'm going to sue you." The crowd of protesters then surrounded § 87(2)(b) and he disappeared into the large crowd. Lt. Wells did not see § 87(2)(b) again and did not see where he went after he disappeared into the crowd (Board Review 06).

§ 87(2)(b)'s arrest was captured in Sgt. Gaspari's second Body Worn Camera Video (Board Review 07) at 02:40. At 03:13 § 87(2)(b) approaches § 87(2)(b) from behind and wraps his arms around her waist (Board Review 08, 09). § 87(2)(b) continuously pulls away from Sgt. Gaspari and other unidentified officers. The view of Lt. Wells grabbing § 87(2)(b) and the aftermath of § 87(2)(b)'s fall is not captured since Sgt. Gaspari continued with arresting § 87(2)(b) and the camera faced down and away from where § 87(2)(b) was.

Sgt. Gaspari had no recollection of § 87(2)(b). He recalled arresting § 87(2)(b) but did not recall seeing § 87(2)(b) interfering or seeing his interaction with Lt. Wells (Board Review 10).

PO Jeanraymond, who was Sgt. Gaspari's partner, retired from the NYPD as of December 1, 2020 and therefore did not provide any statements to the CCRB (Board Review 011).

NY Penal Law 195.05 states that an individual is guilty of obstructing governmental administration in the second degree if the individual intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from

performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act, or by means of interfering, whether or not physical force is involved. (Board Review 12)

NYPD Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody (Board Review 13).

§ 87(2)(g)

[REDACTED]

§ 87(4-b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 14).
- Lt. Wells has been a member of service for 14 and has been a subject in one prior CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)

### Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming permanent physical and personal emotional injuries and seeking 5 million dollars as redress (Board Review 15). A 50(H) hearing took place on § 87(2)(b). The court system and NYC Comptroller's office would not release the 50(H) transcript.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 16, 17).

Squad No.: 1

Investigator: <u>SI Harold Rodriguez</u>	<u></u>	<u>04/07/21</u>
Signature	Print Title & Name	Date

Squad Leader: <u>Mgr. Joy Almeyda</u>	<u></u>	<u>4.7.21</u>
Signature	Print Title & Name	Date

Reviewer: <u></u>	<u></u>	<u></u>
Signature	Print Title & Name	Date